

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

PETRÓLEOS DE VENEZUELA, S.A., PDVSA
PETRÓLEO, S.A., and PDV HOLDING, INC.,

Plaintiffs and Counterclaim Defendants,

- against -

MUFG UNION BANK, N.A. and GLAS
AMERICAS LLC,

Defendants and Counterclaim Plaintiffs.

No. 19 Civ. 10023 (KPF)

**SUPPLEMENTAL LOCAL RULE 56.1 STATEMENT OF UNDISPUTED
MATERIAL FACTS IN FURTHER SUPPORT OF DEFENDANTS AND
COUNTERCLAIM PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

PAUL, WEISS, RIFKIND,
WHARTON & GARRISON LLP
Jeffrey J. Recher
Paul A. Paterson
Jonathan H. Hurwitz
1285 Avenue of the Americas
New York, NY 10019-6064
Telephone: 212-373-3000
Facsimile: 212-757-3990
jrecher@paulweiss.com

PAUL, WEISS, RIFKIND,
WHARTON & GARRISON LLP
Roberto J. Gonzalez (*pro hac vice*)
2001 K Street, NW
Washington, DC 20006-1047
Telephone: 202-223-7300
rgonzalez@paulweiss.com

*Attorneys for Defendants and
Counterclaim Plaintiffs*

CLARK SMITH VILLAZOR LLP
Christopher J. Clark
Virginia F. Tent
666 Third Avenue, 21st Floor
New York, New York 10017-4127
Telephone: 212-377-0850
Facsimile: 212-377-0868
clark@csvllp.com

*Attorneys for Defendants and
Counterclaim Plaintiffs*

Supplemental Glossary

This supplemental statement uses the following defined terms in addition to those used in the Corrected Local Rule 56.1 Statement of Undisputed Material Facts in Support of Defendants and Counter Claim Plaintiffs' Motion for Summary Judgment, ECF No. 138 ("56.1"):

"2015 National Assembly" means the National Assembly of the Bolivarian Republic of Venezuela elected in 2015.

"2020 National Assembly" means the group who took control of the National Assembly of the Bolivarian Republic of Venezuela after elections held in December 2020.

"CAPA" means the Council of Administration and Protection of Assets.

"CITGO 2026 Notes" refers to the CITGO Petroleum Corporation issuance, announced on February 3, 2021, of \$650,000,000 of senior secured notes with a coupon of 6.375% due in 2026.

"CITGO 2029 Notes" refers to the CITGO Petroleum Corporation issuance, announced on September 13, 2023, of \$1,100,000,000 of senior secured notes with a coupon of 8.375% due in 2029.

"Ex. __" means an exhibit annexed to the Third Clark Declaration.

"PDVH" means PDV Holding, Inc.

"Transition Statute" means the "Statute to Govern a Transition to Democracy to Reestablish the Validity of the Constitution of the Republic of Venezuela."

"TSJ" means Venezuela's Supreme Tribunal of Justice.

Pursuant to Local Civil Rule 56.1, defendants and counterclaim plaintiffs MUFG Union Bank, N.A.¹ and GLAS Americas LLC respectfully submit the following supplemental statement of material facts as to which there is no genuine issue to be tried.

I. Debt Issuances

557. Before this Court’s summary judgment ruling, PDVSA and its subsidiaries repeatedly engaged in financing transactions without seeking or receiving National Assembly approval. For example, prior to 2016, PDVSA and its subsidiaries issued debt, including secured debt, in at least 124 transactions, none of which was approved by the National Assembly. *See* 56.1 ¶¶ 384–472. Between 2016 and 2020, PDVSA and its subsidiaries issued debt, including secured debt, in numerous other transactions. *See id.* ¶¶ 473–499.

558. This longstanding practice has continued after this Court’s October 16, 2020 summary judgment ruling. ECF No. 215.

559. For example, on February 3, 2021, CITGO Petroleum Corporation announced an issuance of \$650,000,000 of senior secured notes with a coupon of 6.375% due in 2026 (the “CITGO 2026 Notes”). Ex. 1 at 1; *see also* Ex. 2 at 1. These notes were guaranteed by “[CITGO Petroleum’s] existing and future wholly owned domestic restricted subsidiaries (other than immaterial subsidiaries and certain other excluded subsidiaries) and each other existing and future restricted subsidiary that guarantees the Issuer’s obligations under” a term loan facility entered into as of July 29, 2024. Ex. 1 at 1. They were secured by substantially all of CITGO Petroleum’s assets by way of (i) a first-priority lien on CITGO Petroleum’s refineries in Lake Charles, Louisiana, Lemont, Illinois and Corpus Christi, Texas; (ii) the “inventory and accounts receivable (other than accounts receivable transferred pursuant to any permitted receivables

¹ The original Trustee, MUFG Union Bank, N.A., merged into U.S. Bank National Association, effective May 26, 2023, with U.S. Bank National Association as the surviving entity.

securitization program) of [CITGO Petroleum] and each of the guarantors” (subsidiaries of CITGO Petroleum); (iii) equity interests in CITGO Petroleum’s guarantors; and (iv) “equity interests in [CITGO Petroleum’s] accounts receivable subsidiary, and related assets, in each case to the extent that such assets secure” the term loan facility. *Id.* at 1.

560. At the time the CITGO 2026 Notes were issued, CITGO Petroleum was managed by a Board of Directors elected by CITGO Holding, the Board of which was in turn elected by PDV Holding, Inc. (“PDVH”). The PDVH board was itself elected by the Ad Hoc Administrative Board of PDVSA, which had been appointed by then-Interim President Juan Guaidó. *See Ex. 1 at ix; Jiménez v. Palacios*, 250 A.3d 814, 825 (Del. Ch. 2019), *as revised* (Aug. 12, 2019), *aff’d*, 237 A.3d 68 (Del. 2020).

561. On September 13, 2023, CITGO Petroleum announced an issuance of \$1,100,000,000 of senior secured notes with a coupon of 8.375% due in 2029 (the “CITGO 2029 Notes”). Ex. 3 at 1; Ex. 4 at 1. These notes were guaranteed “by all of the Issuer’s existing and future wholly owned domestic restricted subsidiaries (other than immaterial subsidiaries and certain other excluded subsidiaries).” Ex. 3 at 1. They were secured by a “first-priority lien on (i) the Issuer’s refineries in Lake Charles, Louisiana, Lemont, Illinois and Corpus Christi, Texas,” (ii) the “inventory and accounts receivable (other than accounts receivable transferred pursuant to any permitted receivables securitization program) of the Issuer and each of the guarantors” (subsidiaries of CITGO Petroleum), (iii) equity interests in the guarantors, (iv) equity interests in accounts receivable subsidiaries, and (v) other related assets. *Id.* at 1; Ex. 4 at 1.

562. At the time the CITGO 2029 Notes were issued, CITGO Petroleum was managed by a Board of Directors elected by CITGO Holding, the Board of which was in turn elected by

PDVH. The PDVH Board was itself elected by the Ad Hoc Administrative Board of PDVSA, which was appointed by the Council of Administration and Protection of Assets (“CAPA”), a board appointed by the 2015 National Assembly. *See* Ex. 3 at xi; *infra* ¶ 584; *Jiménez*, 250 A.3d at 825; Ex. 11, Art. 13.

563. Both the CITGO 2026 Notes and the CITGO 2029 Notes are governed by New York law. Ex. 1 at 171; Ex. 3 at 148.

564. National Assembly approval was neither sought nor received for either the CITGO 2026 Notes transaction or the CITGO 2029 Notes transaction. *See generally* Ex. 1; Ex. 3.

565. There is no evidence that the 2015 National Assembly has ever asserted, with respect to either the CITGO 2026 Notes transaction or the CITGO 2029 Notes transaction, that National Assembly approval was required, under Article 150 of the Venezuelan Constitution or otherwise, or that the absence of such approval caused the transaction to be null and void *ab initio* or unenforceable. Nor is there any evidence the National Assembly has ever taken any steps to block the consummation or enforcement of these transactions on such grounds.

II. Political Developments in Venezuela Since September 2020

566. The five-year terms of the members of the National Assembly of the Bolivarian Republic of Venezuela elected in 2015 (the “2015 National Assembly”) were initially scheduled to expire in January 2021. Ex. 5, Art. 12.

567. Likewise, Juan Guaidó’s term as Interim President was initially scheduled to end in January 2021. *Id.*, Art. 15.

568. On December 6, 2020, legislative elections were held for the next National Assembly term. Ex. 6 at 1.

569. Lawmakers aligned with then-Interim President Guaidó and opposed to the Maduro regime largely boycotted those elections with the stated purpose of refusing to validate or otherwise lend legitimacy to what they deemed a “fraudulent process” and “sham.” *Id.* at 1.

570. Legislators aligned with the Maduro regime claimed to have won a majority of National Assembly seats in those elections. Ex. 7 at 1–2.

571. The next day, then-U.S. Secretary of State Michael Pompeo denounced the elections as “rigged” “sham elections” that were “nothing more than an attempt to install a complicit, puppet National Assembly, beholden only to Maduro.” The statement also declared that the United States would “continue to recognize Interim President Guaidó and the legitimate National Assembly.” *Id.* at 2.

572. On December 15, 2020, the 2015 National Assembly resolved to “consider[] illegal and illegitimate” the purported elections held on December 6, 2020. Ex. 6 at 3.

573. On December 26, 2020, the 2015 National Assembly amended the Statute to Govern a Transition to Democracy to Reestablish the Validity of the Constitution of the Republic of Venezuela (the “Transition Statute”), *see* ECF No. 156 ¶ 15, to extend its authority—and, by extension, the authority of Mr. Guaidó, in his capacity as President of the 2015 National Assembly, to serve as Interim President—“until free, fair and verifiable presidential and parliamentary elections are carried out in the year 2021, an unexpected and exceptional political incident occurs in 2021, or for an additional annual parliamentary period starting on January 5, 2021.” Ex. 5, Arts. 12, 15.

574. On January 5, 2021, the Maduro-aligned legislators purportedly elected in the December 6, 2020, elections (the “2020 National Assembly”) physically seized the National Assembly building in Caracas, Venezuela. Ex. 8 at 2.

575. The same day, then-Secretary Pompeo issued a press statement denouncing the 2020 National Assembly as an “illegitimate” and “fraudulently elected body” and announced that the United States would not recognize “it nor its pronouncements.” He further stated that “[t]he United States recognizes Interim President Juan Guaidó as the legitimate president of Venezuela.” *Id.*

576. As of January 4, 2022, the 2015 National Assembly again amended the Transition Statute to further extend its mandate for the 2022 calendar year. Ex. 9, Art. 12.

577. On January 4, 2022, the United States declared its continued recognition of the 2015 National Assembly as the “last remaining democratic institution” in Venezuela. Ex. 10 at 1.

578. On December 30, 2022, the 2015 National Assembly again amended the Transition Statute to further extend its mandate for an additional twelve months. Ex. 11, Art. 7.

579. On January 3, 2023, the U.S. Department of State issued a press statement stating that the United States “continues to recognize the democratically elected 2015 National Assembly as the last remaining democratic institution in Venezuela” and “welcome[s] the agreement reached to extends its authority.” Ex. 12 at 1.

580. In the December 30, 2022, amendment to the Transition Statute, the National Assembly ended the Interim Presidency on January 4, 2023. Ex. 11, Statement of Reasons; Art. 20; *see generally id.*, Art. 7.

581. Though it has recognized the 2015 National Assembly as Venezuela’s “last remaining democratic institution,” Ex. 12 at 1, and the “only legitimate branch of the Government of Venezuela,” Ex. 25 at 1, the United States has not stated that it recognizes the 2015 National Assembly as the government of the Republic. *See, e.g.*, Ex. 8 at 2. Nor has the

United States recognized any other entity as the government of the Republic. *See, e.g.*, Ex. 19 at 1.

582. The United States has not received an ambassador from any Venezuelan government. *See, e.g.*, Ex. 13 at 1.

583. In place of the Interim Presidency, the December 30, 2022, amendment to the Transition Statute created CAPA, a five-member board “appointed by the National Assembly or its Delegate Committee” that is responsible for “protect[ing] all the property or assets of the Bolivarian Republic of Venezuela abroad.” Ex. 11, Art. 9.

584. CAPA’s other powers include:

- To “appoint or revoke legal representatives on behalf of the Republic.” *Id.* Art. 9.
- To appoint the PDVSA Ad Hoc Board, which is responsible for “exercis[ing] the rights that pertain to PDVSA as shareholder of PDV Holding, Inc.” and “appoint[ing] the board of directors of PDV Holding, Inc. on behalf of PDVSA as shareholder of that company,” which is in turn responsible for “appointing the boards of directors of the subsidiaries of that company, including [CITGO] Petroleum Corporation.” *Id.* Art. 13.
- To the extent Venezuelan state assets are recovered pursuant to the Transition Statute, CAPA is responsible for “administer[ing] and protect[ing]” those assets. *Id.* Art. 14.

585. On October 17, 2023, the United States, European Union, Canada, and United Kingdom issued a joint statement supporting an election reform package agreed to by the

Maduro regime and a coalition of opposition parties and called for “fair and competitive” elections in Venezuela. Ex. 14 at 1.

586. On December 15, 2023, the 2015 National Assembly amended the Transition Statute to allow it and CAPA to carry out their functions for another year. Ex. 15, Art. 7.

587. On January 26, 2024, Venezuela’s Supreme Tribunal of Justice (the “TSJ”) disqualified Maria Corina Machado, the winner of the democratic opposition presidential primary, from running for office. Ex. 16 at 1.

588. On January 27, 2024, the U.S. Department of State issued a press statement condemning the TSJ’s decision. *Id.*

589. On March 27, 2024, the U.S. Department of State publicly denounced the Maduro regime’s “decision to prevent democratic opposition parties from registering successive candidates for Venezuela’s upcoming presidential election.” Ex. 17 at 1.

590. On July 28, 2024, Venezuela held presidential elections between Maduro and opposition candidate Edmundo González Urrutia. Ex. 18 at 1–2.

591. Maduro claimed to have prevailed in these purported elections. *Id.* On August 1, 2024, U.S. Secretary of State Antony Blinken issued a press statement stating the evidence showed that González “received the most votes in the election by an insurmountable margin” and that the processing of votes and announcement of election results “were deeply flawed, yielding an announced outcome that does not represent the will of the Venezuelan people.” *Id.* at 1–2.

592. On August 22, 2024, the TSJ issued a decision declaring that Maduro had won the July 28, 2024, presidential election. Ex. 19 at 1.

593. On August 23, 2024, the U.S. Department of State issued a press statement declining to recognize the TSJ’s August 22, 2024, decision, which it said “lacks all credibility.” *Id.*

594. On September 12, 2024, OFAC announced it had sanctioned members of the TSJ, including the TSJ’s Constitutional Chamber, for their roles in “obstruct[ing] a competitive and inclusive presidential election process in Venezuela” in July 2024. Ex. 20 at 1.

595. On November 19, 2024, Secretary Blinken issued a statement on X.com stating that González was the President-Elect of Venezuela. Ex. 21 at 1.

596. On December 19, 2024, the 2015 National Assembly announced it had extended its authority, as well as the authority of CAPA, for another year. Ex. 22 at 1.

597. On January 10, 2025, Maduro was purportedly inaugurated as President of Venezuela. Ex. 24 at 1.

598. The same day, U.S. Secretary of State Antony Blinken issued a press statement stating that “[t]he United States rejects the National Electoral Council’s fraudulent announcement that Maduro won the presidential election and does not recognize Nicolás Maduro as the president of Venezuela.” *Id.*

III. Venezuelan Political Statements About Foreign Assets

599. Maduro has publicly stated that it is important to protect PDVSA’s indirect controlling interest in CITGO, demanding the “immediate return of CITGO” by the United States. Ex. 23 at 1–2. Maduro claimed that CITGO “rightfully belongs to the Venezuelan people.” *Id.*

600. Likewise, the 2015 National Assembly has declared its commitment to “the effective protection of the Republic’s assets abroad.” Ex. 11, Art. 2.

Dated: New York, New York
January 17, 2025

Respectfully submitted,

CLARK SMITH VILLAZOR LLP
Christopher J. Clark
Virginia F. Tent
666 Third Avenue, 21st Floor
New York, New York 10017-4127
Telephone: 212-377-0850
Facsimile: 212-377-0868
clark@csvllp.com
virginia.tent@csvllp.com

*Attorneys for Defendants and
Counterclaim Plaintiffs MUFG Union
Bank, N.A. and GLAS Americas LLC,
in their respective capacities as Trustee
and Collateral Agent, under the
Indenture dated October 27, 2016, and
the Pledge and Security Agreement
dated October 28, 2016, governing
PDVSA's Senior Secured Notes due
2020*

PAUL, WEISS, RIFKIND,
WHARTON & GARRISON LLP

By: s/ Jeffrey J. Recher
Jeffrey J. Recher
Paul A. Paterson
Jonathan Hurwitz
1285 Avenue of the Americas
New York, New York 10019-6064
Telephone: 212-373-3000
Facsimile: 212-757-3990
jrecher@paulweiss.com
ppaterson@paulweiss.com
jhurwitz@paulweiss.com

PAUL, WEISS, RIFKIND,
WHARTON & GARRISON LLP
Roberto J. Gonzalez (*pro hac vice*)
2001 K Street, NW
Washington, DC 20006-1047
Telephone: 202-223-7300
rgonzalez@paulweiss.com

*Attorneys for Defendants and
Counterclaim Plaintiffs MUFG Union
Bank, N.A. and GLAS Americas LLC,
in their respective capacities as Trustee
and Collateral Agent, under the
Indenture dated October 27, 2016, and
the Pledge and Security Agreement
dated October 28, 2016, governing
PDVSA's Senior Secured Notes due
2020*